UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _08 April 2008_.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _34-66_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _34-37 and 46-49, 56-59_ is/are rejected.

7)☐ Claim(s) _38-45 and 50-55, 60-66_ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

Response to Amendment

This communication is in response to the amendment of 4/08/2008. All changes

made to the Claims have been entered. Accordingly, Claims 34-66 are currently

pending in the application.

Claim Rejections - 35 USC § 103

1.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2.   The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

        1.   Determining the scope and contents of the prior art.
        2.   Ascertaining the differences between the prior art and the claims at issue.
        3.   Resolving the level of ordinary skill in the pertinent art.
        4.   Considering objective evidence present in the application indicating obviousness or nonobviousness.

3.   Claims 34, 37, 46, 49, 56, 59 is rejected under 35 U.S.C. 103(a) as being

unpatentable over Meurisse et al. (US 5959973), in view of Van As et al. (US 5768258)

hereinafter referred to as Meurisse and Van As.

Regarding claim 34, 46, 56, Meurisse discloses a method for managing a flow of

packets, comprising (a method to control data flow rate of data transmitted over a

connection set up between a source terminal and a destination terminal via a plurality of

network links and network nodes at least one of which constitutes a queuing network

node which is able to return data flow control packets to the source terminal, the data

flow control packets containing information based on which the data flow rate is to be

controlled in the source terminal, col1 lines 5-16);

  transferring packets of a particular packet flow based on an initial policy scheme

  (actual packet rate for each one of said connections passing through said queuing

  network node, col2 lines 20-35);

planning a scheme change to change the initial policy scheme (first data rate from

source) to a new policy scheme based on transfer conditions within the data

communications device existing while transferring the packets of the particular flow

based on the initial policy scheme (calculate an upper packet rate value proportional to

said actual packet rate and having a flow control packet to be returned to said source

terminal, col2 lines 35-41); and

providing a change signal to a source of the particular packet flow, the change signal

indicating that the data communications device has planned the scheme change (the

source can increase its transmit rate or decrease their transmit rates, col3 lines 10-16

and abstract)

wherein the data communications device is a first computerized node of a network

(queuing network node q of figure 1), the source of the particular packet flow is a

second computerized node (source terminals 21-24 of figure 1) of the network coupled

to the first computerized node by a packet transmission medium (network links, col1

lines 5-16), and providing the change signal comprises transmitting a change signal

packet into the network destined for the second computerized node (feedback rate

control signal, col1 lines 5-36).

Meurisee however fails to specifically disclose having an initial policy scheme

controlling an initial manner in which the packets are transferred from the input ports to

the output ports of the data communication device and having a new policy scheme

controlling a new manner in which the packets are transferred from the input ports to the

output ports of the data communication device, as amended by applicant. Meurisee

however discloses of queuing nodes (data communication device) returning a signal to

the source nodes when congested in order to change the transmit rates (col1 lines 30-

40). Meurisee is however silent in the actual change of transmission rate within the

queuing node. However in a similar fiend of endeavor, Van As discloses the similar

concept of having a congested node (data communication device) notify the source

nodes to modify the transmission rate (initial policy scheme controlling an initial manner

in which the packets are transferred from the input ports to the output ports (initial data

rate in node), abstract and col2 lines 40-45). Van As further discloses of a congested

node (3 of figure 1) in which the switch has become congested and further discloses

that it's output port notifies all input ports of the switch to hold back data cells (change

data rate) and filter certain cells and that if this local congestion control is not sufficient,

notifying an upstream node (node 2 of figure 1) to change its data rate (a new policy

scheme controlling a new manner in which the packets are transferred from the input

ports to the output ports (local congestion control), col3 lines 40-65). It would have thus

been obvious to incorporate the concept of having local control congestion control of a

node involving the transfer rate of data from input to output of that node as disclosed by

Van As into the method to control data flow from a source to a destination with use of a

feedback signal as disclosed by Meurisse, in order to efficiently transfer data throughout

a network with minimal loss of data an a certain QoS.

Regarding claim 37, 49, 59, Meurisee discloses the method of claim 34 wherein the

initial policy scheme is an initial packet classification scheme for classifying packets of

the particular packet flow, and wherein the new policy scheme is a new packet

classification scheme for classifying packets of the particular packet flow in a manner

that is different than that of the initial packet classification scheme (connections are

classified, col7 lines 15-41).

1.   Claims 35, 36, 47, 48, 57, 58 is rejected under 35 U.S.C. 103(a) as being

unpatentable over Meurisse et al. (US 5959973), in view of Van As et al. (US 5768258),

in view of Karol et al. (US 5675573), hereinafter referred to as Meurisse, Van As, and

Karol.

Regarding claim 35, 36, 47, 48, 57, 58, Meurisee and Van As fails to specifically

disclose having the initial policy scheme be an initial packet dropping/scheduling

scheme and wherein the new policy scheme is a new packet dropping/scheduling

scheme. Meurise however discloses of a queuing node that performs the role of a

queuing point for bursty traffic that is rather delay insensitive (col1 lines 25-35 and col8

lines 18-46). Karol further discloses the need to have packet dropping schemes to meet

QoS requirements and to route traffic based on the associated requirements and that

scheduling schemes are used in order to minimize excessive transport delays in order

to reduce losses of packets and to minimize degradation in service quality (col1 lines

35-50). It would have thus been obvious to a person skilled in the art to incorporate the

concept of using packet dropping/scheduling schemes for a policy scheme for

transferring packets as disclosed by Karol into the method to control data flow from a

source to a destination with use of a feedback signal as disclosed by Meurisse in order

to correctly and efficiently transmit data with minimal degradation in service quality.

Response to Arguments

2.   Applicant's arguments with respect to claim 34-66 have been considered but are

moot in view of the new ground(s) of rejection.

Allowable Subject Matter

3.   Claims 38-45, 50-55, 60-66 is objected to as being dependent upon a rejected

base claim, but would be allowable if rewritten in independent form including all of the

limitations of the base claim and any intervening claims.

Conclusion

4.   The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure.

5.   Shinohara (US 6122251), Switch Control Circuit And Control Method Of ATM

Switchboard.

6.   Applicant's amendment necessitated the new ground(s) of rejection presented in

this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37

CFR 1.136(a).

       A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to NGUYEN NGO whose telephone number is (571)272-

8398. The examiner can normally be reached on Monday-Friday 7am - 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Firmin Backer can be reached on (571)272-6703. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/FIRMIN BACKER/

Supervisory Patent Examiner, Art Unit 2616